

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0746

Use Tax

Calendar Years 1994, 1995, and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on May 30, 1997.

Taxpayer failed to self-assess and remit use tax. Taxpayer was incorporated under the laws of Indiana in 1970 and has its corporate headquarters in Michigan. Taxpayer is registered to collect sales tax.

Taxpayer was assessed use tax on taxable items used in the manufacturing area, medical supplies purchased without a prescription, food for immediate consumption, wrapping materials, and other taxable items. The audit was offset by a claim for refund for exempt items that included tax erroneously paid.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty, as there was no deliberate attempt to avoid the additional tax due.

Taxpayer's audit revealed that no use tax accrual system was in place. Taxpayer failed to self-assess as required by statute. 45 IAC 2.2-3-20 clearly states that all purchases of tangible personal property which are stored, used, or consumed in the state of Indiana are subject to the tax.

The taxpayer was negligent in failing to self assess use tax due.

FINDING

Taxpayer's protest is denied.